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GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

April 23, 2014

Katahdin Timberlands, L.L.C.
c/o Howard Weymouth, Land Use Forester
P.O. Box 38
Millinocket, ME 04462

Subject: ADVISORY RULING AR 14-2

Piscataquis County (*T1 R9 WELS*)

Dear Mr. Weymouth:

Thank you for the information provided in your request for an Advisory Ruling. You have asked our opinion on some complex issues with respect to selling existing leased lots. Further, within your request you have indicated that you have modified/enlarged some lots as practical to meet current LUPC lot requirements. We will attempt to provide our view on the matters as we understand them, pursuant to 5 M.R.S.A. § 9001. I want to caution, however, this is an informal response and not a legal determination. In providing our views on these matters, we have relied entirely upon the facts as you have presented them to us in the information submitted to the Commission and in conversations with Commission staff.

Background

It is our understanding that Kathadin Timberlands, L.L.C. (hereafter referred to as KTL) owns the nine (9) leased camp/cottage lots in T1 R9 WELS, Piscataquis County, abutting or near Ambajejus Lake described below. These nine (9) lots are addressed in this Advisory Ruling. Most of the subject lots were established and leased prior to September 23, 1971. All of the subject lots have been surveyed within the last 5 years. Some lots were modified/enlarged in an effort to bring them into compliance with, or as close to, current dimensional size requirements when possible.

KTL has authorized for sale certain lots contained within extensive holdings within the area listed above. The above referenced lots, which are listed in the table below, represent a portion of KTL's land holdings located on Ambajejus Lake, and include five (5) individual islands or portions of islands in Ambajejus Lake. The subject land area currently owned by KTL is identified by Maine Revenue Services as part of Lot 1 on Plan 01 of T 1 R 9 WELS. Collectively, these lots are hereinafter referred to as *Group 1.2 Lots* and represent nine (9) lots of an ongoing sale of nearly seven hundred (700) parcels over the next few years. The land area from whence the *Group 1.2 lots* will be divided, excluding the individual islands, is the same tract or parcel of land from whence the so-called *Group 1 Lots* were divided [reference Advisory Ruling AR 12-06]. The individual islands each are considered to be independent tracts or parcels of land.

Further, it is our understanding that the leases below represent only a portion of KTL's leases within the township of T1 R9 WELS.

Review Findings

Using the information provided, we have performed a review of the lots in question. Issues that may have consistently arisen are categorized below:

Unauthorized Subdivision (US) – Section 10.25, Q.1.g(8) of the Land Use Districts and Standards discusses how the Commission considers lots that may have required subdivision approval when created, but have existed for at least 20 years as now being exempt from subdivision review.

Nonconforming Lots (NL) – Lots which do not meet the current dimensional requirements for residential development contained in Section 10.26 of the Commission's Land Use Districts and Standards are considered to be nonconforming. While they legally exist, you have discussed that it may be possible in some circumstances to modify the lots to make them conforming or less nonconforming. These legally existing nonconforming lots may be conveyed in their present configuration, or in a configuration that makes them less nonconforming provided that the method that makes them less nonconforming does not create a new, non exempt lot.

Nonconforming Contiguous Lots (NCL) – Section 10.11, E.5 of the Commission's Land Use Districts and Standards discusses the manner of conveyance for nonconforming contiguous lots. In all cases, said lots shall be combined to extent necessary to meet dimensional requirements except where each lot has a legally existing conforming dwelling.

Conforming Lots (CL) – Several lots within the Advisory Ruling request meet current dimensional requirements. These lots do not require additional modification and may be conveyed in their current configuration.

The lots in question are listed below with applicable review findings:

ID	Lot #	Lease#	Acres	Former Lot #s	INITIAL	LAPSE	REISSUED	Review Criteria
AM	62	31	1.8	296	8/2/1957			CL
PM	14	4851	1.8	P26	8/15/1972			US, CL
PM	15	3323	1.4	2AP & 3AP	6/26/1961			CL
PM	16	3616	1.3	4A & 5A	6/1/1963	05/18/67	06/01/81	US, CL
AM	3005	3005	2.3	I-5	9/29/1959			CL
DC	2258	2258	0.4	I-4	8/19/1959			NL (size)
PM	4449	4449	4.5	9P	10/9/1968			CL
PM	4808	4808	1.5	I-12	12/30/1970			CL
SC	947	947	0.2	I-115	8/3/1957			NL (size)

Inquiry

You inquire as to whether the referenced lots are currently salable. You want to know whether this proposal would create a subdivision as defined under provisions of section 682(2) of the Commission's Statutes, 12 M.R.S.A.

Analysis

Existing developed leased lots

Based upon the information and lease histories which you have submitted to us, it appears that seven (7) of the nine (9) developed or previously developed leased lots, currently owned by KTL, were created by lease prior to the inception of the Maine Land Use Planning Commission (formerly Maine Land Use Regulation Commission) on September 23, 1971 and have been continuously leased without interruption exceeding two years since that date. Thus, the lots do not count as subdivision lots (reference Section 10.25, Q, 1, e of the Commission's Land Use Districts and Standards). The remaining 2 lots of the existing *Group 1.2* leased lots currently owned by KTL (Lot PM 14 established by lease in 1972 and Lot PM 16 established by lease in 1963, but discontinued and re-established by lease in 1981), when considered together with the *Group 1 Lots* [reference Advisory Ruling AR 12-6], constitute the creation of unauthorized subdivision lots. However, since both of these lots have been continuously leased without interruption for more than 20 years, they are exempt as subdivision lots (reference Section 10.25 Q, 1, g, 8 of the Commission's Land Use Districts and Standards).

Filing Plats

Please note that final plats showing the subject lots should be submitted to the Commission for signature and subsequent filing in the appropriate Registry of Deeds. We also suggest that this Advisory Ruling be recorded at the Registry. We will need to receive one mylar and three paper copies of all the final plats. All plats must be sealed and signed by the Licensed Surveyor who has prepared the plats.

Should you have any further questions, please contact Jean Flannery, Manager for Permitting & Compliance, in our Bangor office at (207) 941-4590.

Sincerely,



Nicholas D. Livesay, Executive Director
Maine Land Use Planning Commission

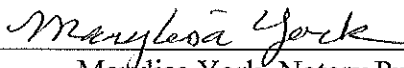
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STATE OF MAINE
County of Kennebec, ss,

Date: 4/23/14

Personally appeared the above named Nicholas D. Livesay, in his capacity as Executive Director of the Maine Land Use Planning Commission, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of the Maine Land Use Planning Commission.

Before me,



Marylisa York, Notary Public
My Commission expires September 11, 2018

MARYLISA YORK
Notary Public • State of Maine
My Commission Expires September 11, 2018